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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,531	12/30/1999	W. DAVID CONLEY	19260-1780	6461

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EXAMINER

NGUYEN, DUC MINH

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 11/19/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/475,531

Applicant(s)

CONLEY, W. DAVID

Examiner

Duc Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 23-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Nolting et al (6,351,453).

Consider claim 23. Nolting teaches a method for calculating charge for a telephone call, comprising monitoring a telephone call placed to a called telephone number to determine call parameters (col. 30, ln. 10-39); determining whether the telephone call originated from a telephone having an originating telephone number that corresponds to an entry in a database (col.

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30, ln. 10-39); determining a set activation fee applies to the telephone call; calculating the charge for the telephone call by using the call parameters to calculate a first portion of the charge (col. 30, ln. 10-39); and adding the set activation fee as a second portion of the charge by a network element, so that the set activation fee is independent of the first portion of the charge (since the LEC receives 20 cents or 25 cents for every call from a coin phone to a prepaid calling card number and the cost of the call is charged to the prepaid account. Therefore, the CDR inherently contains a portion for the duration of the call and another portion to indicate that the LEC would receive 20-25 cents).

Consider claim 24. Nolting further teaches the limitations of claim 24 in (col. 7, ln. 10-21. It is noted that Call Detail Record is an accounting record produced by Switches to track Call Type, Time, Duration, Facilities used, Originator, Destination, etc. CDRs are used for customer billing, rate determination, network monitoring, and facility capacity planning).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-11, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolting et al (6,351,453) in view of Lesley (6,188,752).

Consider claims 1-2, 7. Nolting teaches a method for charging a activation fee for a telephone call direct to a called telephone number comprising receiving the called telephone number and billing information from a set activation fee payphone (col. 30, ln. 10-39); inherently identifying the telephone call as having the originating telephone number associated with the set activation fee telephone (col. 30, ln. 10-39); and charging the set activation fee for the telephone call (col. 30, ln. 10-39).

Nolting does not clearly teach determining if the billing information is valid; if the billing information is valid, then placing a telephone call to the telephone number received from the set activation fee payphone.

Lesley teaches determining if the billing information is valid; if the billing information is valid, then placing a telephone call to the telephone number received from the set activation fee payphone (col. 2, ln. 6-29; col. 6, ln. 31-42; col. 8, ln. 1-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Lesley into the teachings of Nolting, so that the telephone owner can earn some profits and recoup losses from providing telephone service to telephone user.

Consider claims 3, 5. Nolting further teaches determining whether the originating number corresponds to an entry in a billing database (col. 30, ln. 10-39).

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Consider claims 4, 6. Lesley further teaches the use of an SCP database (fig. 1, col. 9, ln. 45-63).

Consider claims 8-10. Nolting teaches a method for charging a fee for a telephone call direct to a called telephone number, comprising receiving the called telephone number and billing information (col. 30, ln. 10-39); and determining whether the telephone number corresponding to the pay telephone is present in the second database (col. 30, ln. 10-39). teach in the event the telephone number corresponding to the pay phone is present in the second data base, charging a set activation fee for the telephone call.

Nolting does not clearly teach in the event that the billing information is present in the first database, placing the telephone call; otherwise, informing the caller that the telephone call may not be placed.

Lesley teaches in the event that the billing information is present in the first database (col. 8, ln. 1-46), placing the telephone call (col. 6, ln. 31-42; col. 8, ln. 1-46); otherwise, inherently informing the caller that the telephone call may not be placed (col. 8, ln. 26-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Lesley into the teachings of Nolting in order to prevent unauthorized user to use the credit or calling card.

Consider claim 11. Nolting further teaches the billing information comprises the group of credit card (col. 30, ln. 10-28) and Lesley teaches the billing information comprises a telephone account number (col. 6, ln. 65 to col. 7, ln. 25; col. 8, ln. 47-54).

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Consider claim 25. Nolting does not clearly teach determining if the billing information is valid; if the billing information is valid, then placing a telephone call to the telephone number received from the set activation fee payphone.

Lesley teaches prior to placing the telephone call, determining if the billing information is valid; if the billing information is valid, then placing a telephone call to the telephone number received from the set activation fee payphone (col. 2, ln. 6-29; col. 6, ln. 31-42; col. 8, ln. 1-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Lesley into the teachings of Nolting, so that the telephone owner can earn some profits and recoup losses from providing telephone service to telephone user.

5. Claims 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolting et al (6,351,453) in view of Lesley (6,188,752) and Casner (4,517,411).

Consider claims 12, 15-17. Nolting teaches a method for charging a activation fee for a telephone call direct to a called telephone number comprising receiving, at a network element, the called telephone number and billing information from a set activation fee payphone (col. 30, ln. 10-39); inherently identifying the telephone call as having the originating telephone number associated with the set activation fee telephone (col. 30, ln. 10-39); and charging the set activation fee for the telephone call (col. 30, ln. 10-39).

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Nolting does not clearly teach determining if the billing information is valid; if the billing information is valid, then placing a telephone call to the telephone number received from the set activation fee payphone.

Lesley teaches determining if the billing information is valid; if the billing information is valid, then placing a telephone call to the telephone number received from the set activation fee payphone (col. 2, ln. 6-29; col. 8, ln. 1-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Lesley into the teachings of Nolting, so that the telephone owner can earn some profits and recoup losses from providing telephone service to telephone user.

Nolting in view of Lesley does not teach generating a false dial tone; receiving the called telephone number and billing information; maintaining the false dial tone; if the billing information is valid, then releasing the false dial tone; seizing a true dial tone.

Casner teaches a method for charging a fee for a telephone call direct to a called telephone number, comprising generating a false dial tone (dial tone generated by the PBX or PABX; col. 3, ln. 38-49); receiving the called telephone number and billing information (credit card, called telephone number, station number and/or room number; col. 3, ln. 38 to col. 4, ln. 17); maintaining the false dial tone (col. 3, ln. 38 to col. 4, ln. 26); if the billing information is valid (col. 4, ln. 18-26), then releasing the false dial tone; seizing a true dial tone (dial tone provided by

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the DDD network; col. 4, ln. 18-22); and placing the telephone call to the called telephone number (col. 3, ln. 38 to col. 4, ln. 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Casner into the teachings of Nolting in view of Lesley in order to effectively verify the identity of the originating station and billing information.

Consider claims 13-14. Lesley inherently teaches the approval signal and denial signal (col. 7, ln. 14-25; col. 8, ln. 1-45).

6. Claims 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golden (4,897,870) in view of Nolting et al (6,351,453).

Consider claim 18. Golden teaches a method for charging a fee for a telephone call direct to a called telephone number, comprising generating a false dial tone (dial tone generated by the payphone; col. 5, ln. 32-49); receiving the called telephone number and billing information (col. 5, ln. 32 to col. 6, ln. 3); maintaining the false dial tone (col. 6, ln. 4 to col. 7, ln. 24); if the billing information is valid (col. 6, ln. 4 to col. 7, ln. 24), then inherently releasing the false dial tone; inherently seizing a true dial tone (dial tone provided by the normal switched telephone network; col. 6, ln. 4 to col. 7, ln. 24); and placing the telephone call to the called telephone number (col. 6, ln. 4 to col. 7, ln. 24).

Golden does not clearly teach charging a set activation fee for the telephone call directed to the called telephone number.

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Nolting teaches a method for charging a activation fee for a telephone call direct to a called telephone number comprising receiving, at a network element, the called telephone number and billing information from a set activation fee payphone (col. 30, ln. 10-39); inherently identifying the telephone call as having the originating telephone number associated with the set activation fee telephone (col. 30, ln. 10-39); and charging the set activation fee for the telephone call (col. 30, ln. 10-39). It is further noted that as long as the caller uses a card or account (billing information) to pay for the call, the owner of the payphone would receive the set activation fee of 25 cents to 35 cents. It is also noted that the called telephone number is the destination telephone number. Since making a calling card call includes dialing an access code (calling card service, prepaid calling card numbers, credit card verification system, and the like) + a destination number or called telephone number. Nolting detects the dialing of the access code to determine whether the call is a calling card call, regardless of the destination number.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Nolting into the teachings of Golden in order to effectively verify the billing information, so that the telephone owner can earn some profits and recoup losses from providing telephone service to telephone user.

Consider claim 19. Nolting further teaches using the call parameters and activation fee to compute a charge for the telephone call (col. 30, ln. 10-28).

Consider claim 20. Nolting further teaches determining the called telephone number and the billing information originated from a telephone having an originating telephone number (col.

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30, ln. 10-39); and determining the originating telephone number is associated with a set activation fee pay phone (col. 30, ln. 10-39).

Consider claims 21-22. Nolting further teaches determining whether the originating number corresponds to an entry in a billing database (col. 30, ln. 10-39).

Response to Arguments

7. Applicant's arguments filed 10/9/03 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). It is noted that all claims, except for claims 23-24, are rejected based on combinations of references.

Regarding the Golden reference, applicant states "there is nothing in Golden that discloses it provides a false dial tone, a release of the dial tone, nor the seizing of a true dial tone." In contrast to applicant's assertions, Golden provides a false dial tone (local dial tone generator 60; col. 5, ln. 33-49). Golden inherently teaches the step of seizing a true dial tone (dial tone provided by the DDD network), since in telephony, dial tone is the tone sent by the originating switch (such as Class 5 Switches, Central Office Switches, or PBX and Key System Switches) to the originating subscriber, indicating the switch has detected the off hook indication, and is ready to accept the destination telephone number. Therefore, although the caller does not hear the dial

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tone provided by the CO. The payphone in fig. 3 must seize the true dial tone before it places the call to the CO.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Nguyen whose telephone number is (703) 308-7527.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Kuntz, can be reached on (703) 305-4708.

Any response to this action should be mailed to:

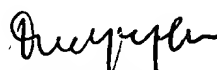
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

703-872-9306

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

November 14, 2003


DUC NGUYEN
PRIMARY EXAMINER